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In re Application of:	:	DECISION ON
FLEURY, Sylvain et al.	:	
Application No.: 10/573,704	:	RENEWED
PCT No.: PCT/IB04/02433	:	
Int. Filing Date: 29 July 2004	:	PETITION
Priority Date Claimed: 30 July 2003	:	
Atty Docket No.: 122481	:	UNDER
For: NEW SOLUBLE AND STABILIZED TRIMERIC :	:	
FORM OF GP41 POLYPEPTIDES	:	37 CFR 1.47(a)

This is in response to applicant's "Renewed Petition to Accept Application Under 37 CFR 1.47(a)" filed 08 August 2007.

BACKGROUND

On 29 July 2004, applicants filed international application PCT/IB04/02433, claiming a priority date of 30 July 2003. The thirty-month deadline for paying the basic national fee in the United States expired at midnight on 30 January 2006.

On 27 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee and a petition to revive the instant application under 37 CFR 1.137(b).

On 17 April 2006, the Office mailed the "Decision on Petition For Revival of Abandoned Application Under 37 CFR 1.137(b)", granting applicants' request to revive the instant application.

On 31 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that, an oath or declaration and a surcharge for filing the oath or declaration later than 30 months from the priority date, must be filed. The notification set a two-month time limit in which to respond.

On 27 February 2007, applicant filed a petition under 37 CFR 1.47(a) accompanied by, *inter alia*, a petition fee, a four-month extension fee, an oath executed by inventors Sylvain Fleury, Marc Girard, Marie-Gaelle Roger and Nicolas Mouz, and a declaration by Mr. Christian Rochet.

On 08 June 2007, a decision dismissing the 27 February 2007 petition was mailed indicating that the petitioner had failed to sufficiently demonstrate that non-signing inventor Pierre-Francois Serres was presented with a complete copy of the application, including the claims.

On 08 August 2007, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) a statement of the last known address of the non-signing inventor, (3) an oath or declaration by each applicant on his or her own behalf of the non-signing joint inventor, and (4) factual proof that the non-signing joint inventor refuses to execute the application or cannot be reached after diligent effort.

Petitioner has previously satisfied items (1)-(3) above.

With regard to item (4) above, applicants filed the renewed petition considered herein. The renewed petition includes a declaration of Christian Rochet that states Pierre-Francois SERRES was sent "a complete copy of the application papers (specification, claims, and drawings along with Declaration/Power of Attorney and Assignment documents)". This satisfies the outstanding requirement for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

For reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 29 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 February 2007.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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In re Application of FLEURY, Sylvain et al.
U.S. Application No.: 10/573,704
PCT No.: PCT/IB04/02433
Int. Filing Date: 29 July 2004
Priority Date Claimed: 30 July 2003
For: NEW SOLUBLE AND STABILIZED TRIMERIC
FORM OF GP41 POLYPEPTIDES

Dear Pierre-Francois Serres

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Attorney Docket No.: 122481



OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of one of the joint inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Pierre-Francois Serres) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/IB04/02433 and was filed on 29 July 2004 in the name of Mymetics Corporation for the invention entitled "NEW SOLUBLE AND STABILIZED TRIMERIC FORM OF GP41 POLYPEPTIDES". The national stage application number is 10/573,704 and has a date of 27 February 2007 under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4).